

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,361
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare closing his food stamp grant. The issue is whether the petitioner has a licensed car whose value is in excess of the maximum set forth in the pertinent regulations.

FINDINGS OF FACT

The facts are not disputed. The petitioner is a single young man who until recently was employed as an assistant restaurant manager. In the fall of 1990, while he was working, the petitioner purchased a new 1991 Subaru for about \$18,600--virtually all of which the petitioner financed through a bank loan.

A short time thereafter, the petitioner was injured and eventually terminated from his job. He applied for and began receiving food stamps. The Department, through its own admitted "error", did not explore the circumstances and value of the petitioner's car. When the Department did find out the value of the car, it terminated the petitioner's food stamps.¹

ORDER

The Department's decision is affirmed.

REASONS

The regulations governing the treatment of "licensed vehicles" are set forth in Food Stamp Manual § 273.8(g) and (h). They provide that, unless specifically "exempt"², the portion of a car's market value, regardless of the petitioner's "equity", in excess of \$4,500.00 will be counted as a resource. The resource maximum under the food stamp regulations is \$2,000.00. F.S.M. § 273.8(b). The petitioner readily concedes that the market value of the car is well in excess of \$6,500. Thus, it must be concluded that the petitioner has resources under the regulations in excess of the program maximum.³ Inasmuch as the Department's decision is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d); Food Stamp Fair Hearing Rule No. 17.

FOOTNOTES

¹The Department indicated it will probably also determine that the petitioner was "overpaid" food stamps for the months before the Department notified him his grant would be terminated. However, the Department acknowledged that under the regulations it has no practical recourse to compel "recoupment" of any overpayment resulting from its own "administrative error". See F.S.M. § 273.18(g). The petitioner will be held liable for recoupment of food stamps paid after the effective date of termination by virtue of his request for fair hearing. See F.S.M. § 273.15(s)(2).

²The petitioner concedes he does not meet any of the criteria for exemption. See F.S.M. § 273.8(h)(1).

³The regulations provide that if the petitioner's car is not "licensed" (which, the Department indicated, means the same as "registered") only the petitioner's "equity" in the car would be considered as a resource. See F.S.M. 273.8(c)(2). The petitioner was advised to reapply for food stamps if he "deregisters" his car.

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